

### **Remarks/Arguments**

Applicants have received and carefully reviewed the Office Action of the Examiner mailed September 10, 2007. Currently, claims 5-31, 52, 54-72, and 74-95 remain pending of which claims 5-31 were previously withdrawn from consideration. Claims 52, 54-72, 74-93 have been rejected. In this amendment, claims 52, 72, 94, and 95 have been amended.

Favorable consideration of the following remarks is respectfully requested.

#### ***Claims 94 and 95***

In the Request for Continued Examination and Amendment filed June 25, 2007, Applicant had added newly presented claims 94 and 95. Nowhere does the Examiner appear to acknowledge claims 94 and 95 in the current Office Action. As such, Applicant respectfully requests a Non-Final Office Action including an indication that claims 94 and 95 are allowable subject matter or a rejection of the claims. Additionally, in this amendment, claims 94 and 95 have been amended to recite “wherein the only single layer of filter membrane”.

#### ***Claim Rejections – 35 USC § 102***

In paragraph 3 of the Office Action, claims 52, 54, 55, 57-72, 74, 75, and 77-93 were rejected under 35 U.S.C. 102(e) as being anticipated by Mazzocchi et al. (U.S. Patent No. 6,605,102). After careful review, Applicant must respectfully traverse this rejection.

Turning to claim 52, which recites:

52. (Currently Amended) A filter assembly for capturing debris within a blood vessel, comprising:

an elongate shaft having a proximal end and a distal end;

a filter disposed proximate the distal end of the elongate shaft, the filter including a filtering region and an attachment region, the filter having an expanded and a contracted shape;

in the expanded shape, the filtering region including a major opening defined adjacent the filtering region proximal end and only a single layer of filter membrane defining a ~~single layer~~ filter basket and extending between the major opening and the distal end of the filtering region, the filter membrane having a plurality of apertures defined therein that are configured to allow the passage of blood through the filtering region;

the filter membrane further comprising a first tapered portion and a second tapered portion, a portion of the first tapered portion defining a first included angle, and the second tapered portion extending proximally from a proximal

portion of the first tapered portion, a portion of the second tapered portion defining a second included angle greater than the first included angle.

As can be clearly seen, Applicant has amended claim 52 to recite, in part, “in the expanded shape, the filtering region including . . . only a single layer of filter membrane defining a filter basket”.

Instead, Mazzocchi et al. appears to disclose a two-layered intravascular trap for temporarily filtering embolic particles from blood passing through a patient’s vascular system. (See column 19, lines 55-57). To further illustrate this, Mazzocchi et al. recites:

In moving from its collapsed state (FIG. 11A) to its expanded state (FIG. 11B), the metal fabric turns in on itself, with a proximal portion 282 of the collapsed basket being received within the interior of a distal portion 284 of the collapsed basket. This produces a two-layered structure having a proximal lip 286 spaced radially outwardly of the guidewire, defining a proximally-facing cup-shaped cavity 288 of the basket. (Emphasis added).

(Column 20, line 65 through column 21, line 5). Thus, the trap that is described in Mazzocchi is a two-layered structure in its expanded state and not only a single layer, as now recited in claim 52.

In the Office Action, the Examiner appears to acknowledge that Mazzocchi et al. fails to teach limiting the filtering region to only one layer. (See paragraph 7 of the Office Action). As amended, Applicant respectfully asserts that claim 52 includes only a single filtering layer. Therefore, for at least this reason, claim 52 is believed to be not anticipated by Mazzocchi et al. For similar reasons, claims 54, 55, 57-71, and 94, which depend from claim 52, are believed to be not anticipated by Mazzocchi et al.

Referring to claim 72, which, similar to claim 52, has been amended to recite, in part, “in the expanded shape, the filtering region including only a single layer of filter membrane defining a filter basket”. Therefore, for similar reasons discussed above, as well as others, claim 72 is believed to be not anticipated by Mazzocchi et al. For similar reasons, claims 74, 75, 77-93, and 95, which depend from claim 72, are believed to be not anticipated by Mazzocchi et al.

### ***Claim Rejections – 35 USC § 103***

In paragraph 5 of the Office Action, claims 56 and 76 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzocchi et al. in view of Daniel et al. (U.S. Patent No. 5,814,064). After careful review, Applicant must respectfully traverse this rejection. For similar

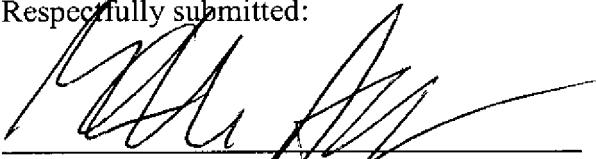
reasons discussed above, as well as others, claims 56 and 76, which depend from claim 52 and 72, respectively, are believed to be patentable over Mazzocchi et al. in view of Daniel et al.

***Conclusion***

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted:

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